

31A-2-205. Examination costs.

(1) (a) Except as provided in Subsection (3), an examinee that is one of the following shall reimburse the department for the reasonable costs of examinations made under Sections 31A-2-203 and 31A-2-204:

- (i) an insurer;
- (ii) a rate service organization;
- (iii) a subsidiary of an insurer or rate service organization; or
- (iv) a life settlement provider.

(b) The following costs shall be reimbursed under this Subsection (1):

(i) actual travel expenses;

(ii) reasonable living expense allowance;

(iii) compensation at reasonable rates for all professionals reasonably employed for the examination under Subsection (4);

(iv) the administration and supervisory expense of:

(A) the department; and

(B) the attorney general's office; and

(v) an amount necessary to cover fringe benefits authorized by the commissioner or provided by law.

(c) In determining rates, the commissioner shall consider the rates recommended and outlined in the examination manual sponsored by the National Association of Insurance Commissioners.

(d) This Subsection (1) applies to a surplus lines producer to the extent that the examinations are of the surplus line producer's surplus lines business.

(2) An insurer requesting the examination of one of its producers shall pay the cost of the examination. Otherwise, the department shall pay the cost of examining a licensee other than those specified under Subsection (1).

(3) (a) On the examinee's request or at the commissioner's discretion, the department may pay all or part of the costs of an examination whenever the commissioner finds that because of the frequency of examinations or the financial condition of the examinee, imposition of the costs would place an unreasonable burden on the examinee.

(b) The commissioner shall include in the commissioner's annual report information about any instance in which the commissioner has applied this Subsection (3).

(4) (a) A technical expert employed under Subsection 31A-2-203(3) shall present to the commissioner a statement of all expenses incurred by the technical expert in conjunction with an examination.

(b) The examined insurer shall, at the commissioner's direction, pay to a technical expert:

(i) (A) actual travel expenses;

(B) reasonable living expenses; and

(C) compensation; and

(ii) for expenses necessarily incurred as approved by the commissioner.

(c) The examined insurer shall reimburse the department for:

(i) a department examiner's:

(A) actual travel expenses; and

- (B) reasonable living expenses; and
- (ii) the compensation of department examiners involved in the examination.
- (d) (i) The examined insurer shall certify the consolidated account of all charges and expenses for the examination.
- (ii) The examined insurer shall:
 - (A) retain a copy of the consolidated account; and
 - (B) file a copy of the consolidated account with the department as a public record.
- (e) An annual report of examination charges paid by examined insurers directly to persons employed under Subsection 31A-2-203(3) or to department examiners shall be included with the department's budget request.
- (f) Amounts paid directly by examined insurers to persons employed under Subsection 31A-2-203(3) or to department examiners may not be deducted from the department's appropriation.
- (5) (a) The amount payable under Subsection (1) is due 10 days after the day on which the examinee is served with a detailed account of the costs.
- (b) Payments received by the department under this Subsection (5) shall be handled as provided by Section 31A-3-101.
- (6) (a) The commissioner may require an examinee under Subsection (1), or an insurer requesting an examination under Subsection (2), either before or during an examination, to make deposits with the state treasurer to pay the costs of examination.
- (b) Any deposit made under this Subsection (6) shall be held in trust by the state treasurer until applied to pay the department the costs payable under this section.
- (c) If a deposit made under this Subsection (6) exceeds examination costs, the state treasurer shall refund the surplus.
- (7) A domestic insurer may offset the examination expenses paid under this section against premium taxes under Subsection 59-9-102(2).

Amended by Chapter 355, 2009 General Session